

**REPORT OF**  
**TARGET MARKET CONDUCT EXAMINATION**  
**OF**  
**THE MANUFACTURERS LIFE INSURANCE**  
**COMPANY (U.S.A.)**

**Bloomfield Hills, Michigan**

**and**

**THE MANUFACTURERS LIFE INSURANCE**  
**COMPANY OF AMERICA**

**Bloomfield Hills, Michigan**

**AS OF**

**DECEMBER 31, 1996**

The Honorable Mike Kreidler  
Washington Insurance Commissioner  
Insurance Building  
PO Box 40255  
Olympia, Washington 98504-0255

Dear Commissioner Kreidler:

Pursuant to your instructions and in compliance with the statutory requirements of RCW 48.03.010, I have examined the corporate affairs and market conduct of:

The Manufacturers Life Insurance Company (U.S.A.), NAIC #65838  
The Manufacturers Life Insurance Company of America, NAIC #87793  
500 North Woodward Avenue, Suite 250  
Bloomfield Hills, MI 48304

hereafter referred to as "the Companies" or "ManUSA" and "ManAmerica" respectively. The following report is respectfully submitted.

#### Scope of Examination

The examination was performed in compliance with the provisions of Washington insurance laws and regulations. The market conduct review followed the rules and procedures promulgated by the Office of the Insurance Commissioner (OIC) and the National Association of Insurance Commissioners (NAIC). The examination covered the period of January 1, 1992 through December 31, 1996. The scope of this examination was limited to Marketing and Sales Practices, Complaint Handling and Replacement Activity.

As the two companies have the same ownership, board of directors, processing procedures and management, the combined operations of both companies are incorporated into this report.

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## **EXAMINATION REPORT CERTIFICATION**

This examination was conducted in accordance with the Office of the Insurance Commissioner and National Association of Insurance Commissioners market conduct examination procedures. This examination was performed by Leslie A. Krier, Alan A. Hudina, and Nancy L. Barnes who participated in the preparation of this report.

I certify that the foregoing is the report of the examination, that I have reviewed this report in conjunction with pertinent examination work papers, that this report meets the provisions for such reports prescribed by the Office of the Insurance Commissioner, and that this report is true and correct to the best of my knowledge and belief.

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Leslie A. Krier, AIE, FLMI  
Chief Market Conduct Examiner  
Office of the Insurance Commissioner  
State of Washington

## FOREWORD

This target market conduct examination report is by exception and additional practices, procedures and files subject to review during the examination were omitted from the report if no improprieties were indicated. Throughout the report, where cited, RCW refers to the Revised Code of Washington and WAC refers to the Washington Administrative Code.

Because ManUSA and ManAmerica function as a single company, it was determined that it would be appropriate to issue a single report. Unless otherwise noted, all items discussed refer to the combined Companies rather than either entity alone.

## SCOPE

### SITUS

This examination was a Level Two Target Market Conduct Examination conducted off site.

### TIME FRAME

This examination covered operations of ManUSA and ManAmerica from January 1, 1992 through December 31, 1996.

### METHODOLOGY

#### **Sampling Standards**

In general the sample for each test utilized in this examination falls within the following guidelines:

**92% Confidence Level**  
**+/- 5% Tolerance**

## REGULATORY STANDARDS

Samples are tested for compliance with standards established by the OIC. The tests applied to sampled data will result in an error ratio, which determines whether or not a standard is met. If the error ratio found in the sample is, generally, less than 5%, the standard will be considered as "met." The standard for agent licensing and appointment is not met if any violation is identified. This will also apply when all records are examined, in lieu of a sample.

For those standards that look for the existence of written procedures, or a process to be in place, the standard will be met based on the examiner's analysis of those procedures or processes. The analysis will include a determination of whether or not the Companies follow established procedures.

## HISTORY OF THE COMPANY TERRITORY OF OPERATIONS MANAGEMENT

The Manufacturers Life Insurance Company (USA) ("ManUSA") was admitted to the State of Washington on July 1, 1958. ManUSA is a direct subsidiary of Manulife Reinsurance Corporation (USA) ("MRC"), which is ultimately owned by The Manufacturers Life Insurance Company ("Manulife"). Effective January 1, 1996, Manulife merged with The North American Life Assurance Company ("NAL") and acquired The North American Security Life Assurance Company, a subsidiary of NAL, as a result of the merger.

The Manufacturers Life Insurance Company of America ("ManAmerica") was admitted to the State of Washington on July 30, 1982. ManAmerica is a direct subsidiary of The Manufacturers Life Insurance Company (USA), which is a wholly owned subsidiary of MRC, which is ultimately owned by the Manufacturers Life Insurance Company.

ManUSA is licensed for variable life and annuity products in Washington. Their taxable premium volume in 1996 in Washington was \$ 43,950,685. The Company had 1,135 policies issued in Washington during the exam period. As of the examination date they had 281 agents licensed in Washington.

ManAmerica is licensed for variable life and annuity products in Washington. Their taxable premium volume in 1996 in Washington was \$ 5,841,445. The Company had 687 policies issued in Washington during the exam period. As of the examination date they had 128 agents licensed in Washington.

The Companies have common agents, processing centers and procedures.

Boards of Directors govern both Companies. The members of the boards are:

<b>MEMBER</b>	<b>ManUSA</b>	<b>ManAmerica</b>
Felix Ping Ching Chee	X	
Robert Allen Cook	X	
Sandra Miller Cotter		X
John David DesPrez III	X	
James David Gallagher	X	
Donald Arthur Guloien		X
Geoffrey Ivan Guy	X	
Theodore Francis Kilkuskie		X
James Patrick O'Malley	X	X
Joseph John Peitroski	X	X
John David Richardson	X	X
Rex Elbridge Schlaybaugh	X	

<b>MEMBER</b>	<b>ManUSA</b>	<b>ManAmerica</b>
Denis Turner	X	X
John Gysbertus Vrysen	X	X

During the period from 1992 to 1994, for operations in the State of Washington, the administrative records for both Companies were housed in the branch office in Seattle and the Main Administrative Office in Toronto. In 1994, the branch office was consolidated with the Companies' Oregon Regional Office. During this time, the records were housed at both the Oregon Regional Office and in Toronto. In 1996, the regional office was centralized and the records were moved to the Main Administrative Office in Toronto.

Policy records for the exam period are stored in five (5) different formats: paper, cartridge tape, imaged documents, perm pack disc and microfiche. Offsite storage for these records is provided by two (2) document retention firms at three (3) locations in Ontario. The Companies use a total of 14 systems for policy administration. The variable products of ManAmerica utilize three (3) systems: PALLM, McCamish and SPVL/VL PC. The traditional products of ManUSA use the balance of the systems.

### **Affiliates and Subsidiary Companies**

There are no affiliates or subsidiary companies whose operations are within the scope of this examination.

### **MARKETING PLAN**

The Companies provided marketing plans for each of the five (5) years covered by this examination.

- The 1992 Plan references "...enhanced features such as 'wash loans.'" The Companies were asked to provide additional information on this feature and responded that this refers to "...loan interest when the actual rate credited to the loan account is equal to the rate of interest charged on the policy loan less the loan interest credit differential which is 0% after the first 10 policy years. The loan interest credited differential is the difference between the rate of interest charged on a policy loan and the rate of interest credited to amounts in the loan account." Additionally, the 1992 Plan notes that the Companies would be supporting the "...marketing initiatives as proposed in the 1992 Variable Products Strategy." When asked to define those initiatives, the Companies responded that they related to increasing production for the Variable Universal Life (VUL) products and also addressed updating and upgrading marketing materials. The 1992 Plan also referenced a "no cost loan campaign." When asked for specifics, the Companies responded that they "...decided not to conduct the campaign, therefore there are no quantifiable numbers relative to the campaign."

- The 1993 Plan referenced the “...need to explore options to keep the customer’s satisfaction in terms of their expectations...” relative to policy performance. The options defined included new rider and flexible inforce options.
- The 1994 plan introduced the Coverage Review Program to address the performance of policies in a declining interest rate environment. The program had three (3) facets:
  - 1) Educate the policyowner on the impact of declining interest rates.
  - 2) Update the policyowner on their policy performance in the current environment.
  - 3) Provide them with options to help them effectively manage their insurance policies.

Specific to this last item, the Companies offered the policyowner six (6) options. These options were: Additional Deposit, Face Amount Reduction, Enhanced Term, Resuming Premium Payments, Term Insurance Option, and Variable Conversion. The names of these options are self-defining and nothing was unexpected in the definitions provided by the Companies. The Companies indicate that 27 Washington policyholders utilized these options, specifically:

- 4 policyholders took The Additional Deposit Option
- 1 policyholder took the Face Reduction Option
- 22 policyholders took the Variable Conversion Option.

The 1994 Plan included an item listed as “vanish/supervanish to fail”. The Companies were asked for a clarification of this item. The Companies responded that this item was identified in the marketing plan in anticipation of the problems that could arise when policyholders realized that their premium vanishing plan might fail. The inforce illustration system was modified “so that policyholders could be fully aware of the current status of their policies on an ongoing basis...”

The examiners also questioned the notation that United States Individual Business Management (USIB) was to conduct branch visits. The Companies responded that “the proposed branch visits by USIB did not take place in the Washington branch office during the year, due to the reorganization of the Branch offices.” Also noted was the plan for development of “selected Branch Marketing Plans.” However, due to the reorganization, no plans were developed for Washington.

- The 1995 Plan again references the Coverage Review Program and indicates that full implementation may “result in short term increases in lapsation as well as some increase in litigation.” The Companies could not provide any correlation between the Coverage Review Program and any increase in lapses or litigation. In fact, the Companies felt that the program might have avoided policy lapses, as the program



was perceived as a direct effort on the part of the Companies to deal with the issue in a forthright manner.

- The 1996 plan is unremarkable in the context of this examination.

**STANDARD 1 - The Companies' marketing plan does not contain references to vanishing premium policies, replacement programs, exchange programs, nor other indicators of possible churning activities.**

**RESULT: The Companies met this standard.**

## **ADVERTISING FILE/ILLUSTRATIONS**

### **Advertising**

The combined Companies' advertising file was reviewed pursuant to WAC 284-23-090. The advertising file contained all advertising materials as statutorily defined. The Companies provided a combined syllabus showing 81 pieces of advertising in use during the exam period. Forty-two (42) items were selected based upon the examiners' perception of relevance of the material to the scope of the exam.

Of these 42 items reviewed, two (2) were agent designed and had been approved by the Companies and two (2) were designated for internal or broker/dealer use only. Excluding the two (2) that were designated for broker dealer use only, 25 did not disclose the full name and home office of the insurer. This is a violation of WAC 284-23-060(1). See Appendix A for a listing by form number of the material in violation.

No other issues were detected and the remaining material reviewed was in compliance with Washington advertising regulations.

The Companies do not allow agents to publish anything concerning the policies or the business of the Companies, or to advertise or issue circulars of any kind, unless first approved by the Companies. The stated procedure was followed on the two (2) agent designed pieces noted above.

Agency audits were performed in 1994, 1995 and 1996. The Companies' Internal Audit Department performed the 1994 audit. This particular audit did not reference a review of advertising materials in use in the agency. The 1995 and 1996 audits were conducted under the direction of ManEquity, a Company-affiliated broker/dealer. Advertising materials were reviewed in these audits and the materials were within the Companies' compliance standards.

**STANDARD 2 – All agent or vendor produced training materials were controlled by the Companies and the Companies actively audited use of these materials.**

**RESULT: As the Companies did not audit use of advertising materials in their 1994 audit, the Companies did not meet this standard.**

### **Illustrations**

The Companies provided three (3) versions of the illustration software that was in use during the exam period. Two (2) were DOS based and one (1) operated in a Windows environment. Illustrations were run on all versions of the software, but due to system limitations, the DOS based applications could not be printed. Numerous illustrations were run and reviewed relative to 48.23A RCW. No two-tiered or bonus interest situations were encountered. There were adequate disclaimers relative to projected and illustrative values and the guaranteed versus projected values were adequately identified.

After running the illustrations, the following observations were noted:

- Changing the interest rate requires a password; numerous words were tried without gaining access.
- The edit fields only allowed changes of name, address, plan applied for, etc.
- The illustration could not be changed.
- If an interest rate is input that exceeds the maximum for the plan a red error message appears that states "Interest rate exceeds maximum programmed rate."
- Utilizing the print command for the illustration (Windows version only) and then returning to edit and inputting a higher interest rate activated the same red error message.

The above changes were tried on all three (3) versions of the illustration software for a variety of plans and values with the same degree of success. Ample disclaimers regarding guaranteed rates and current rates were provided.

**STANDARD 3 – The advertising file contained copies of all advertising material as statutorily defined, including copies of agent created advertising material, WAC 284-23-090 and WAC 284-23-020.**

**RESULT: The Companies met this standard.**

**STANDARD 4 – Advertising materials complied with Washington Advertising Regulations, WAC 284-23-010 through WAC 284-23-080.**

<b>Number of advertisements</b>	<b>81</b>
<b>Number of advertisements reviewed</b>	<b>42</b>
<b>Number in violation</b>	<b>25</b>
<b>Percent in violation</b>	<b>59.5% (outside 5% tolerance)</b>

**RESULT: The Companies did not meet this standard.**

*Subsequent Event: In late 1997, the Companies issued procedures concerning the use of Company names. These procedures instruct that the name of the insurer, the home office address, telephone number, and web site are to be clearly identified on all sales and marketing materials.*

## **AGENT ACTIVITY**

### **Training Bulletins**

Both Companies' agency forces consist entirely of independent producers either in the form of independent agents or broker/dealers. The Companies' stated strategy for training this independent force is to provide written communication through the regional office. The distribution of material is either directly to the regional office for dissemination to producers or directly to the producers through a publication entitled "Internal Communications" whose name was subsequently changed in 1996 to "Insight." Issues of each publication were reviewed. The review was unremarkable for any references encouraging replacement of existing policies or special funding programs.

**STANDARD 5 - Agent communications did not encourage replacement of existing internal or external policies, special funding programs or other indicators of churning activity.**

**RESULT: The Companies met this standard.**

### **Audits**

The Companies advise that a combined audit was done of the Seattle Office as part of a five (5) region audit in 1994. ManEquity, a Company-affiliated broker/dealer, also performed audits in 1995 and 1996. The audits covered collections, cash accounting, disbursements, advertising, agent licensing and policy administration.

The policy administration section of the 1994 Seattle audit indicated a one (1) in four (4) error rate regarding agents licensing and appointment. Of the 4 policies reviewed, the agent solicited one (1) of the applications prior to confirmation of his appointment being received at the Home Office. The examiners asked the Companies to provide the specific audit findings for licensing errors including agent number and policy number. Additionally, the Companies were asked if any expanded sampling was done given a 25% error rate on a sample of four (4) policies. The Companies responded "Specific detail on the applications, agents and insureds for cases where an application was accepted without an active producer license is not provided in the available 1994 audit files."

An internal memo dated June 2, 1994 titled “Results of the Quality Control Audit,” which was provided by the Companies in response to the level two exam request, references applications that were accepted “without an active producer license/appointment in the state where the application was signed.” The Seattle Office is listed. Another internal memo also provided by the Companies in the manner defined above, dated December 8, 1994, referenced “development of appropriate action plans to rectify any deficiencies.” When asked to provide any details or follow-up that was done relative to the noted findings and referenced action plan, the Companies responded “While there is documentation regarding the restructuring and proposed centralization of functions, no response was found regarding the issues specific to the Seattle office.”

The 1995 and 1996 audits performed by ManEquity were focused on NASD and SEC requirements. The audit reports provided included an Examiner’s Checklist, a Marketing Manager Questionnaire, and a Service and Operations Manager Questionnaire. There are no remarkable deficiencies noted.

**STANDARD 6 – The Companies conducted regular audits of agent activities through regular branch or agency office audits and visits.**

**RESULT: The Companies met this standard.**

**Agent Training Materials**

The Companies provided a combined syllabus of Agent Training Material consisting of 63 items. Thirty (30) items were reviewed, based on the examiner’s perception of relevance to the scope of the examination. The examiner found no areas of concern in this material.

**STANDARD 7 – Training material for both new and existing agents in use during the examination period complied with Washington Statutes and Regulations, WAC 284-23-010 through WAC 284-23-130.**

<b>Total Number of Training Materials</b>	<b>63</b>
<b>Pieces reviewed</b>	<b>30</b>
<b>Pieces not in compliance</b>	<b>0</b>
<b>Percent not in compliance</b>	<b>0% (within 5% tolerance limit)</b>

**RESULT: The Companies met this standard.**

**Agent Contracts**

The agent contracts were reviewed for each Company. There were nine (9) contracts for ManUSA and three (3) for ManAmerica. The Companies advised that the same

commission schedules, commission restriction guidelines and production bonus schedules are used for both Companies. Nothing in the commission schedules or bonus schedules contained language or compensation incentives that would tend to encourage internal replacements. Both Companies agents' contracts have language that specifically prohibits any action that would be "prejudicial to the Company's interest or that of its policyholders." All conversions, policy changes, and internal replacements require commission adjustments, as do withdrawals within specified time limits.

**STANDARD 8 – Agent contracts and commission schedules did not contain language that encourages internal replacements.**

**RESULT: The Companies met this standard.**

**AGENT DISCIPLINARY ACTIONS**

The examiners were provided a copy of its procedures for investigating and handling agent disciplinary actions. These procedures were applicable to both Companies. The Companies indicated that these procedures, while undated, were the procedures in use during the exam period. The procedures state that any suspected or alleged agent misconduct or violations of the Companies' policies or applicable laws are investigated by the Internal Audit Department to determine validity. If the investigation validates agent misconduct, the report findings are reviewed with Manulife's Legal Counsel and Internal Audit Department. The agent's file is documented. If the situation involves a variable product, the details of the investigation are also provided to the agent's broker/dealer for reporting to the NASD.

Agents found to have violated the Companies' Code of Business Conduct and/or the Agent's Code of Conduct are subject to the disciplinary actions outlined therein. When determining the appropriate course of action, the following criteria are considered:

- The extent of the violation
- Prior record of violations or record of similar violations under other regulatory bodies, such as the NASD
- The agent's willingness to correct the situation
- Whether the violation was willful
- Any other mitigating or aggravating factors

The appropriate action is then determined. Based upon the gravity of the violation the Companies' actions range from:

- Placing the agent on a monitoring system
- Issuance of a letter with a warning or reprimand
- An internal audit of all business sold by the agent
- Legal action by Manulife

- Termination of contract
- Reporting to the State Department of Insurance if state laws and or regulations have been violated

The Companies were asked if they had an ethics review board or similar entity and responded that "...any situation warranting agent disciplinary action was discussed with the appropriate business units, such as Sales and Distribution, Agency, Corporate Client Relations, Manulife's Legal Counsel and Internal Audit. This was the extent of the entity similar to an Ethics Review Board that existed during the examination period..."

During the time frame of the examination, no Washington agent was the subject of any disciplinary action and as such there is no documentation as to whether the Companies followed the prescribed disciplinary actions.

**STANDARD 9 – The Companies had and followed written procedures for disciplining agents and those actions were documented.**

**RESULT: The Companies met this standard.**

#### **AGENT LICENSING & APPOINTMENTS**

A randomly selected sampling of 243 policy data files was conducted to determine if the agent was both licensed and appointed at the time the application was written. The agent listed on the application was checked against the OIC's agent licensing system to identify any agent licensing or appointment irregularities.

Ten (10) agents were licensed but not appointed when applications were written. This is a violation of RCW 48.17.010. The agent, policy number, application date and appointment date are listed on Appendix B. Additionally, the Companies database was checked for additional contracts written by these agents during the exam period. Where additional contracts were involved, those contract numbers are also included on Appendix B.

**STANDARD 10 – Agents representing the Companies had been licensed and appointed prior to soliciting applications on behalf of the Companies, RCW 48.17.010.**

<b>Number of policies issued</b>	<b>1822</b>
<b>Number reviewed</b>	<b>259 (243 sample files plus 16 from company data)</b>
<b>Violations</b>	<b>24</b>
<b>Percentage</b>	<b>9.2% (0 tolerance)</b>

**RESULT: The Companies did not meet this standard.**

The Companies reported that no agents were terminated for cause during the time period of the examination. This is consistent with OIC records.

**STANDARD 11 – All agents that had been terminated for cause by the Companies had been reported terminated to the OIC.**

**RESULT: The Companies met this standard.**

### **COMPLAINT HANDLING PROCEDURES/COMPLAINTS**

The Companies provided a two (2) page narrative of their complaint handling procedures, which they advise were in effect for both Companies during the time period of the examination. They state “Complaint handling procedures are maintained according to the regulations set out in the NAIC Complaint Handling Model Act.” A review of the procedures indicates the following guidelines:

- The complaint, whether written or oral, is recorded.
- A written acknowledgement is sent to the complainant within 48 hours of receipt of the complaint.
- Once the complaint is investigated, every complainant receives a written response from the Companies.
- An effort is made to respond within five (5) working days for routine inquiries and three (3) to four (4) weeks for those more complex in nature. It shall be noted that the guideline to respond within four (4) weeks is outside the requirements of WAC 284-30-650.

The Companies also maintains guidelines for handling complaints filed through the OIC. These guidelines are:

- The complaint is recorded as to the date received and the date a response is due in accordance with OIC requirements (15 working days).
- A response to the OIC is sent within 15 working days, the response must be sent by first class mail, and it must include supporting documentation.
- The complaint is assigned a NAIC code number and recorded on the centralized complaint database with a narrative outlining the nature and outcome of the complaint.
- The complaint file is retained in a secure area maintained by Corporate Client Relations. The file is retained for a period of at least five (5) years, or from the date of the last examination.

The Companies did not provide a definition for routine versus complex inquiries. The Companies advise that each business unit is provided with a listing of the types of complaints that are to be referred to Client Relations. Specifically, these complaints

include misrepresentation, misappropriation, agent misconduct and fraud. These complaints are recorded by branch, product, agent, date received, date closed, reason for complaint and include a brief narrative to outline the nature and resolution of the complaint. The Companies also state that all complaints are recorded on a centralized database and that a quarterly complaint report is provided for distribution to line area management, compliance and to senior management at the division level.

The Companies' database for complaints was reviewed. The complaint log is in the form prescribed in the Companies' procedures.

In summary, the Companies follow their written complaint handling procedures. While the Companies' procedures do not specifically address tracking trends, given the quarterly reports, the procedures in place and the number of complaints reported, indications would be that the Companies would be aware of trends in the complaints and would be able to act upon them accordingly.

**STANDARD 12 – The Companies had and followed written complaint handling procedures.**

**RESULT: The Companies met this standard.**

**STANDARD 13 – The Companies monitored complaint records for trends, and had a formal procedure for reporting trends to management.**

**RESULT: The Companies met this standard.**

The Companies recorded nine (9) complaints from Washington policyholders during the exam period, eight (8) for ManUSA and one (1) for ManAmerica. Three (3) of the ManUSA complaints were from the OIC. Based on the examiner's perceived relevance to the exam scope, six (6) of the complaints were reviewed.

Of the six (6) files reviewed, all were completed within 15 working days of receipt by the Companies. All were satisfactorily settled.

<b>Complaint Type</b>	<b># of Complaints</b>	<b># from OIC</b>
Surrender Charges	2	1
Forged Loan Documents	1	0
Policy Services	1	0
Vanishing Premium	1	0
Thought Purchased an Investment	1	2

**STANDARD 14 – The Companies responded to OIC complaints within 15 business days (WAC 284-30-650) and showed good faith in resolving complaints within 15 business days.**



<b>Total number of OIC complaints</b>	<b>3</b>
<b>Policy files reviewed</b>	<b>3</b>
<b>Number outside of 15-day turnaround</b>	<b>0</b>
<b>Percent outside of 15-day turnaround</b>	<b>0 (within 5% tolerance limit)</b>

**RESULT: The Companies met this standard.**

## **REPLACEMENT PRACTICES**

The Companies provided three (3) sets of replacement procedures that were in use during the exam period. The set identified as Field Office Replacement Procedures was dated May 20, 1992. The other two (2) sets were identified as Home Office Replacement Procedures and were dated February 26, 1993 and August 1995, respectively.

The Field Office Replacement Procedures stated how field offices were to handle replacement of another company's business. This procedure stated that the agent was to present the applicant with appropriate replacement paperwork not later than the time the application was signed. The same procedure stated that the existing company was to be notified of the possibility of replacement within three (3) working days of the date of the application. The procedure does not indicate that similar procedures must be followed for internal replacements.

The Client Relations Officer of Manufacturers Life stated in an internal memo dated October 4, 1995 that replacement procedures were not in place for internal replacements. The Companies responded that procedures were subsequently amended to include internal replacement procedures to further comply with the requirements of the replacement regulations. Replacement procedures dated May 10, 1996 were provided to the examiners.

Due to the discovery of this deficiency in the replacement procedures, the Companies were asked to provide a listing of all internal replacements processed during the exam period. A listing of 73 files was provided. Eighteen (18) of the 73 files were included in the random sample reviewed as part of the Policy File Review section. Of the 55 files remaining, the Companies were able to provide the required replacement notice for fourteen (14) of the files. Forty-one (41) were in violation of WAC 284-23-455(2)(a)(ii), which requires that the insurer maintain a copy of the replacement notice provided the applicant. See Appendix C.

It should be noted that Standard 15 is divided into two sections—Standard 15A and 15B. The division of the Standard was necessitated by the examination of two separate groups of files.

**STANDARD 15A – The Companies’ replacement procedures were in writing and were consistent with the Washington Replacement Regulations.**

Code	Company	Total Population	Sample Size	# of Violations	Percentage in Violation
<b>WAC 284-23-455(2)</b> <b>(a)(ii)</b>	<b>USA</b>	<b>38</b>	<b>30</b>	<b>21</b>	<b>70%</b>
	<b>America</b>	<b>35</b>	<b>25</b>	<b>20</b>	<b>80%</b>

**RESULT: The Companies did not meet this standard.**

A cover letter on the Companies’ replacement procedures dated February 26, 1993 discusses the deficiencies in the Home Office Replacement procedures workflow. The memo states that the current workflow does not show that a case has been received. This particular workflow delays recording the receipt of the case until notification to the existing insurer has been completed. The end result is that the new business case is not recorded as received and the three (3) business day replacement notification requirements were not being met. The Companies revised the workflow by requiring the scanning of the incoming application into the Image system that records the date and time of receipt.

The set of Home Office procedures dated August 1995 provides a step-by-step outline of the workflow process. The process is divided into internal and external replacement categories.

It should be noted that the Companies’ replacement procedures do not require an amendment be obtained if the replacement question on the application is left blank. If the applicant’s replacement question is not answered when the application is taken, it is a violation of WAC 284-23-450(2).

If the replacement question on the agent’s report is left blank, it is a violation of WAC 284-23-455(1) which requires that the agent or broker sign a statement as to whether he or she knows replacement is or may be involved in the transaction.

Additionally, files in the database that indicated replacement was involved were checked against the Companies’ replacement log. If files are not included on the Companies’ replacement log, it is a violation of WAC 284-23-455(3).

A review of 103 randomly selected policy files from the database provided that involved replacement during the exam period was performed. The files in violation are included on Appendix D.

**STANDARD 15B: The Companies’ replacement procedures were in writing and were consistent with the Washington Replacement Regulations.**

Code	Company	Total Population	Sample Size	# of Violations	Percentage in Violation
WAC 284-23-450(2)	USA	1,135	43	0	0%
	America	687	60	2	3.3%
WAC 284-23-455(1)	USA	1,135	43	7	16.3%
	America	687	60	3	5%
WAC 284-23-455(2)(a)(ii)	USA	1,135	43	6	14%
	America	687	60	14	23.3%
WAC 284-23-455(2)(b) – Letter	USA	1,135	43	1	2.3%
	America	687	60	3	5%
WAC 284-23-455(2)(b) – 3 days	USA	1,135	43	4	9.3%
	America	687	60	5	8.3%
WAC 284-23-440(2)(a)	USA	1,135	43	2	4.7%
	America	687	60	7	11.7%
WAC 284-23-455(3)	USA	1,135	43	2	4.7%
	America	687	60	4	6.7%

**RESULT: The Companies did not meet this standard.**

### **MONITORING REPLACEMENT ACTIVITY**

NOTE: There is no legal limit as to the number of replacements an agent may write. However, replacements should be monitored by the Companies to guard against excessive replacement, or churning. The threshold of “greater than one (1) per month” is used in this section of the examination solely for the purpose of testing the Companies’ oversight procedures.

The Companies issued 1,822 contracts during the exam period. The Companies’ replacement log indicates 418 entries. These 418 entries do not include the 20 exceptions noted above and listed on Appendix D. Conservatively, the log indicates approximately 22.9% of the Companies’ business with a source of replacement.

Information was extracted from data provided by the Companies which indicated four (4) agents, each of whom had written more than ten (10) contracts, had replacement as the source of 40% or more of their business. See Appendix E.

The Companies were asked if they monitored the replacement log for high levels of replacement activity by agents. They responded “...replacement procedures did not include procedures to monitor high replacement activity by agent.” These 4 agents wrote 152 contracts with 88 of them replacements (57.9%).

**STANDARD 16 – Number of replacements for any one agent in any calendar year should not be significant (<1 per month, combined internal and external replacements).**

**RESULT: The Companies did not meet this standard.**

**STANDARD 17 – The Companies had identified patterns of replacements by individual agents such as moving policies in and out of the Companies at regular intervals, replacements of large blocks of business, moving funds from one policy to another.**

**RESULT: The Companies did not meet this standard.**

### **POLICY FILE REVIEW**

The number of Washington policies in force as of 12/31/96 for ManUSA was 1,745 and for ManAmerica, 930. The total number of policies issued in Washington from 1/1/92 to 12/31/96 was 1,135 for ManUSA and 687 for ManAmerica. From the combined total of 1,822 issued policies, 259 policy files (141 for ManUSA and 118 for ManAmerica) were selected at random and requested from the Companies.

	Inforce	Issued	Reviewed	% of Issued Reviewed
ManUSA	1,745	1,135	141	12%
ManAmerica	930	687	118	17%

The policy files were reviewed with emphasis on the following areas:

- Did both the applicant/owner and the agent properly sign the application?
- Were the agents appointed by the Companies and licensed by the state when the application was signed?
- Was replacement of an existing contract involved and if so were the proper replacement forms completed? If an external replacement, was proper notification provided to the existing company?
- Were existing policy values used to pay the premium on the new policy?

The review of policy records did not indicate a pattern of old policies being used to fund new policies. The remaining specific findings of this review are incorporated into the sections of this report entitled Replacement Practices and Agency Licensing/Appointments.

### **REGULATORY ACTIONS**

A review of the disciplinary actions taken by other states within the last 5 years indicates three (3) actions. These actions are summarized below.

- 1) State of Nevada, 1999 – The Company paid an administrative fine to the Department of Business and Industry, Division of Insurance, for failure to file an Annual Complaint Report (ManUSA).
- 2) State of California, 1997 – The Company paid an interest assessment for failure to report unclaimed property items within the prescribed time frame (ManUSA).
- 3) State of Michigan, 1995 – The Company consented to a cease and desist order for issuance of a group policy to an entity which did not qualify as a group and made commission payment to an unlicensed producer of said business (ManAmerica).

## SUMMARY

The Companies' management appears quite diverse and while the Companies have procedures in place for compliance with most of the established regulations, there does not appear to be any consistency demonstrated in following the procedures that have been established. The Companies stress the independent nature of its sales force. However, regular monitoring to ensure adherence to Washington insurance regulations and Company guidelines and procedures has not been performed on a consistent basis. As the Companies are ultimately responsible for the marketing and administration of its products, it must maintain control of the process. Monitoring the agents to be certain that they comply with the Companies' policies is inherent in the Companies' control of its products and processes.

This examination has pointed out inadequacies in the Companies' processes and procedures, most notably in the area of replacement processing. Adherence by the Companies to their own stated procedures, specifically regarding replacement and agent licensing is inconsistent. Merely having the procedures in place is of little consequence unless the Companies take an active role in their application.

## INSTRUCTIONS

- 1) The Companies are in violation of WAC 284-23-060(1) and are instructed to make certain that its full name and home office are clearly identified on all advertisements. (Page 9).
- 2) The Companies are in violation of RCW 48.17.010 and are instructed to make certain all agents are licensed and appointed by the company with the State of Washington prior to soliciting applications on behalf of the company. (Page 14).
- 3) The Companies are in violation of WAC 284-23-450(2) and are instructed to “Require with or as part of each application for life insurance or annuity a statement signed by the applicant as to whether such proposed insurance or annuity will replace existing life insurance or annuity.” (Page 18 and 19).
- 4) The Companies are in violation of WAC 284-23-455(1) and are instructed to “Require with or as part of each completed application for life insurance or annuity, a statement signed by the agent or broker as to whether he or she knows replacement is or may be involved in the transaction.” (Page 18 and 19).
- 5) The Companies are in violation of WAC 284-23-455(3) and are instructed to change their procedures to make certain all replacement business is entered on the Companies’ replacement register. (Page 18 and 19).
- 6) The Companies are in violation of WAC 284-23-455(2)(a)(ii) and are instructed to “Require...a copy of the replacement notice provided the applicant pursuant to WAC 284-23-440(2)(a). (Page 17, 18 and 19).
- 7) The Companies are in violation of WAC 284-23-455(2)(b) and are instructed to change their procedures such that “written communication [to the existing company] shall be made within three working days of the date the application is received in the replacing insurer’s home or regional office...” (Page 19).
- 8) The Companies are in violation of WAC 284-23-455(2)(b) and are instructed to “Send to each existing insurer a written communication advising of the replacement or proposed replacement...” (Page 19).
- 9) The Companies are in violation of WAC 284-23-440(2)(a) and are instructed to make certain that the notice is completed no later than at the time the application is taken. (Page 19).

## **RECOMMENDATIONS**

- 1) It is recommended that the Companies establish a practice of clearly date stamping the application when it is received in the home office. (Page 17).
- 2) It is recommended that the Companies monitor its replacement registers for any trends or patterns of replacement by an agent or agency. (Page 19 and 20).



**APPENDIX A**

**Listing of advertisements in violation of WAC 284-23-060(1). "The full name and home office of the insurer shall be clearly identified..."**

		Man USA	Man America	Both
Form Number	Product/Title			
6510CG(4) 0890	UL 7	X		
6046CG(4) 0890	Performance Plus UL	X		
6519CG(4) 0591	Performance Advantage UL	X		
IM4045EP 07/96	Survivorship UL	X		
062096CT01N	Survivorship UL	X		
6532MG(4) 1191	Prosperity WL		XX	
6532CB(4) 11/91	Prosperity WL		XX	
6527MG(4)0494	Survivorship SE		XX	
6559MG(4)0892	Select 1		XX	
IM3004 11/95	Survivorship UL	X		
IM3008PG 08/95	UL 10	X		
IM4002 07/93	Survivorship Life		XX	
IM3011PG 03/96	Performance Advantage	X		
IM4035 07/96	UL Performance Advantage	X		
IM4035 07/95	Manulife 10 Term		XX	
IM4038B 03/95	Premier WL		XX	
IM4039LP 06/95	Survivorship Life		XX	
IM4039B 06/95	Survivorship Life		XX	
6527MG(4) 1291	Survivorship SE		XX	
IM4045B 07/96	Survivorship UL	X		
IM4045PG 07/96	Survivorship UL	X		
06209CT01N	Survivorship UL	X		
IM4024 07/93				X
IM1521 04/94			XX	
IM4027 03/94			XX	

X marks materials used by ManUSA during the examination period.

XX marks materials used by ManAmerica until December 31, 1996 at which time these products were transferred to ManUSA, as a result of the transfer of direct written business from ManAmerica to ManUSA.

**APPENDIX B - APPLICATIONS WRITTEN BY UNAPPOINTED AGENTS**

AGENT NUMBER	POLICY NUMBER	APPLICATION SIGNED/POL DATE	APPOINTMENT DATE
600730	5709543	1/29/92	3/12/92 per company
	5709535	2/1/92	
	5709536	2/1/92	
664516	5716761	10/25/92	11/16/92 per company
694938	5716873	8/31/93	not appointed
	5716874	10/1/93	
173664	5149438	2/18/94	6/3/86 to 1/2/94, 12/6/96 to 5/4/2001
	5149458	3/24/94	
	5149491	6/28/94	
	5149431	3/8/94	
	5149433	1/25/94	
	5149437	4/1/94	
	5149439	2/18/94	
	5358380	11/7/94	
	5358410	11/20/94	
	5358470	2/14/95	
269160	5358539	3/21/95	4/6/93 to 1/2/94, 4/21/95 to 5/4/2001
129006	5367378	12/20/95	not appointed
601204	5722425	9/8/94	not appointed
	5722423	10/6/94	
	5722424	10/6/94	
266706	5809977	1/12/93	2/3/93 to 11/28/98
269840	5861877	12/6/95	12/11/95
340120	5845680	11/17/92	12/31/97

APPENDIX C – Replacement Violations		
Code/Description	Number of Violations	Policy Numbers – Bold type indicates ManAmerica
	USA/America	
WAC 284-23-455(2)(a)(ii) – Replacement, Signed replacement notice.	21/20	5809600, 5809909, 5809621,
		5809540, 5809541, 5809581,
		5809624, 5809634, 5809856,
		5809863, 5809873, 5809874,
		5809877, 5809881, 5809882,
		5809929, 5845596, 5853817,
		5861933, 58538976, 5809927,
		<b>5716915, 5716842, 5733594,</b>
		<b>5733590, 5710551, 5710609,</b>
		<b>5710610, 5716820, 5716837,</b>
		<b>5716938, 5716942, 5735790,</b>
		<b>5727898, 5735819, 5733554,</b>
		<b>5733567, 5733577, 5735681,</b>
		<b>5735683, 5735688</b>

APPENDIX D – Replacement Violations		
Code/Description	Number of Violations	Policy Numbers – Bold type indicates ManAmerica
	USA/America	
WAC 284-23-450(2) – Replacement, submit statement signed by applicant.	0/2	<b>5014078, 5019767</b>
WAC 284-23-455(1) – Replacement, submit statement signed by agent.	7/3	5862045, <b>5019767</b> , 5809908, <b>5716913</b> , 5809511, <b>5733389</b> , 5809640, 5845520, 5815473, 5862043
WAC 284-23-455(2)(a)(ii) – Replacement, signed replacement notice.	6/14	5135442, <b>5716925</b> , 5845520, 5809900, <b>5733583</b> , 5809574, 5861745, <b>5716947</b> , <b>5733593</b> , 5809887, <b>5716871</b> , <b>5733584</b> , <b>5014069</b> , <b>5019993</b> , <b>5733569</b> , <b>5716752</b> , <b>5716834</b> , <b>5727919</b> , <b>5716843</b> , <b>5727897</b>
WAC 284-23-455(2)(b) – Replacement, send notification letter to existing insurer.	1/3	<b>5014239</b> , <b>5014593</b> , 5845520, <b>5019993</b>
WAC 284-23-455(2)(b) – Replacement, send notification letter to existing insurer within 3 working days of the date the application is received in home or regional office.	4/5	5135342, 5845636, <b>5716761</b> , 5149301, <b>5716834</b> , <b>5724306</b> , <b>5716873</b> , 5149445, <b>5709696*</b>
WAC 284-23-440(2)(a) – Replacement, form to be completed not later than the time the application is taken	2/7	<b>5716755</b> , 5135342, <b>5709696</b> , <b>5716931</b> , <b>5709696</b> , <b>5716776</b> , <b>5710520</b> , <b>5716905</b> , 5809908
WAC 284-23-455(3) – Replacement, the Companies are to maintain a replacement register.	2/4	5845520, 5809574, <b>5733569</b> , <b>5716834</b> , <b>5014239</b> , <b>5014593</b> ,

**\*This file was added. When reviewing file 5709696 in regard to removal from the violations for WAC 284-23-455(3), it was discovered that this policy shows an original receipt date in the Companies' home offices of 12/9/92. The replacement notice was sent to the existing carrier on 12/17/92 (6 days).**

**APPENDIX E****Man USA/Man America****AGENTS WHOSE REPLACEMENT BUSINESS WAS GREATER THAN 40%**

<b>AGENT CODE</b>	<b>Man/USA Applications</b>	<b>Man/USA Replacements</b>	<b>%</b>	<b>Man/America Applications</b>	<b>Man/America Replacements</b>	<b>%</b>	<b>TOTAL APPS</b>	<b>TOTAL REPL C.</b>	<b>TOTAL %</b>
342080	49	18	37%	41	21	51%	90	39	43%
600787	0	0	0%	21	20	95%	21	20	95%
33206	20	16	80%	2	2	100%	22	18	82%
650669	8	6	75%	11	5	45%	19	11	58%